

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,262	03/02/2004	James W. Kenney	DSC-PT001	2797
37533	7590 06/17/2005		EXAMINER	
JOSEPH M. KONIECZNY, P.C. PO Box 387			. KOCZO JR, MICHAEL	
CONSHOHOCKEN, PA 19428-0387		,	ART UNIT	PAPER NUMBER
	·		3746	
			DATE MAILED: 06/17/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Michael Koczo, Jr. 3746 3746 -The MAILING DATE of this communication appears on the cover shoet with the correspondence eddress— Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of time may be evaluable under the provisions of 37 CFR 1.135(L). In one event, however, may a reply to timely filed when Skiff (b) Month's from the mailing date the communication appears on the active may be supply to the provision of 37 CFR 1.135(L). In one event, however, may a reply to timely filed when Skiff (b) Month's from the mailing date the communication when the skiff (b) Month's from the mailing date of the communication when the skiff (b) Month's from the mailing date of the communication when the skiff of the skif							
## Examiner Art Unit 3748 ## The MAILING DATE of this communication appears on the cover sheet with the correspondence address = Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. • Exeminator of time may be available unable the proteines of 37 CPR 1.05(b). In no event, however, may a reply be timely filed • If the period for reply a pecified above, he machiner abdatory principle of the period of the reply as pecified above. The machiner abdatory principle of the period of the reply as pecified above. The machiner abdatory principle of the standary maintainer of thing (30) days will be considered timely. • If the period for reply as pecified above, he machiner abdatory principle of the standary maintainer of thing (30) days will be considered timely. • If the period for reply as pecified above, he machiner abdatory principle of the standary maintainer of thing (30) days will be considered timely. • If the period for reply as pecified above, he machiner abdatory principle of the standary maintainer of thing (30) days will be considered timely. • If the period for reply as pecified above, he machiner abdatory principle of the standary maintainer of the period of the communication. • If the period for reply as pecified above, he machiner abdatory principle of the standary may are the period of the communication. • If the period control of the standary principle of the communication of the period of the communication. • If the period control of the standary principle of the communication of the period of the communication. • If the period control of the period of the communication of the period of the control of the period of the control of the period of the control of the period of the promity of the period o		Application No.	Applicant(s)				
Michael Koczo, Jr. 3746		10/791,262	KENNEY, JAMES W.				
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Exercision for the page available under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be timely filed Expendition for may be available under the provisions of 37 CFR 1.13(a). In no event, however, may a reply be timely filed Expendition for reply appelled above is less than thirty (30) days, a reply within the stationy minimum of thirty (30) days will be considered timely. If the period for reply appelled above is less than thirty (30) days, a reply within the stationy minimum of thirty (30) days will be considered timely. If the period for reply appelled the reply will, by statint, cause he application to become ABANDONED (38 U.S.C \$ 1.33). Period of the period of reply is period days. If the period for reply appelled the second replaced to the communication. False to replay within the set or estended period for replay vall, by statint, cause he application to become ABANDONED (38 U.S.C \$ 1.33). The replaced that the second replaced the replaced of the communication, even if the second replaced of the communication. Provided the second replaced the replaced of the communication to the communication. Provided the communication of the communication of the communication of the communication. Provided the communication of the communication of the communication of the communication. Provided the communication of the communication of the communication of the communication. Provided the communication of the communication of the communication. Provided the communication of the communication of the communication of the communication of the communication. Provided the communication of the communication of the communication of the communication. Provided the communication of the communication of the communication of the communication of the communication	Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of lones may be available under the provisions of 37 CFR 1.35(a), his no event, however, may a reply be timely filed. - Extensions of lones may be available under the provisions of 37 CFR 1.35(a), his no event, however, may a reply be timely filed. - Extensions of lones may be available under the provisions of 37 CFR 1.35(b), his no event, however, may a reply be timely filed. - Extensions of lones may be available under the provisions of 37 CFR 1.35(a). - If NO period for reply is specified above, he maximum statutory period will apply and underpit SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, he maximum statutory period will apply and underpit SIX (6) MONTHS from the mailing date of this communication, seen If limity filed, may reduce any seamed patient term edipatiment. See 37 CFR 1.704(b). - Status - In Responsive to communication(s) filed on			II				
THE MAILLING DATE OF THIS COMMUNICATION. Editations of time may be evalished under the proxision of 30°CPR 1.15(6). In no event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of this communication of 30°CPR 1.15(6). In no event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of this communication. Symbol may be suffered to the symbol of the		pears on the cover sheet with the c	correspondence address				
1) Responsive to communication(s) filed on	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a ref if NO period for reply specified above, the maximum statutory period. - Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing.	136(a). In no event, however, may a reply be tirely within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. (D) (35 U.S.C. § 133).				
2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s)	Status						
3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-46 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-46 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. Attachment(e) Notice of Braftsperson's Patent Drawing Review (PTO-948) Paper No(s)Mail Date (PTO-143) Paper No(s)Mail Date (Application (PTO-152)	1) Responsive to communication(s) filed on	<u> </u>					
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-46 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are ejected. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
4)		,					
4a) Of the above claim(s) is/are withdrawn from consideration. 5) □ Claim(s) is/are allowed. 6) □ Claim(s) is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) 1-46 are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. 10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some * c) □ None of: 1. □ Certified copies of the priority documents have been received. 2. □ Certified copies of the priority documents have been received in Application No 3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) All Interview Summary (PTO-413) Paper No(s)/Mail Date Paper No(s)/Mail Date Paper No(s)/Mail Date Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)	Disposition of Claims		•				
9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	4a) Of the above claim(s) is/are withdra 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to.	awn from consideration.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	Application Papers						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	9) The specification is objected to by the Examine	er.					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some colon None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	e 37 CFR 1.85(a).				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 1 Notice of Informal Patent Application (PTO-152)			• ,				
a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)	Priority under 35 U.S.C. § 119						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)	 a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Burea 	ts have been received. ts have been received in Applicati prity documents have been receive nu (PCT Rule 17.2(a)).	on No ed in this National Stage				
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152)							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)							
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5) Notice of Informal Patent Application (PTO-152)		4) Interview Summary	(PTO-413) ate				
	3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) 🔲 Notice of Informal P					

Application/Control Number: 10/791,262 Page 2

Art Unit: 3746

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 34 to 40, drawn to a diaphragm pump with pressure and vacuum ports having axes that are perpendicular to the axis of motion of the diaphragm, classified in class 417, subclass 537.
- II. Claims 41 to 43, drawn to a diaphragm pump with pressure and vacuum ports having axes that define a plane that is parallel to the planar interface, classified in class 417, subclass 559.
- III. Claim 44, drawn to a method of assembling a diaphragm pump, classified in class 29, subclass 888.02.
- IV. Claim 46, drawn to a pipette gun including a diaphragm pump, classified in class422, subclass 100.

The inventions are distinct, each from the other because of the following reasons:

Inventions III and I, II, IV, respectively, are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as using a press to self-lock the housing components.

Inventions I, II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility because it does not require pressure and vacuum ports having axes that define a plane that is parallel to the planar interface, or a gun housing. Likewise, each of the other inventions does not require the features of each of the remaining inventions for its operation. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Claims 1 to 33 and 45 link the various inventions and will be examined with the claims of the elected invention.

This application contains claims directed to the following patentably distinct species of the claimed invention: the species of figure 3, the species of figure 13, and the species of figure 16.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 6-17, 23, 24, 31, 32, 34 to 37 and 41 to 46 appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

Application/Control Number: 10/791,262

Art Unit: 3746

thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone election was not attempted by the examiner in view of the complexity of the restriction requirement.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Koczo, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:30-4:00.

Application/Control Number: 10/791,262 Page 5

Art Unit: 3746

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached at 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Koczo, Jr Primary Examiner

Art Unit 3746